

REMARKS/ARGUMENTS

Claims 22-49 stand rejected under 35 USC 101 as being directed toward non-statutory subject matter. It is noted that the Examiner has not rejected any claims based on prior art (i.e., for anticipation or obviousness).

With respect to independent Claim 22, on page 2 of the Office Action the Examiner states the following:

“Re: independent claim 22, steps a and b are only location and obtaining a point, and claim 22 does not specify the practical application for mentioned point, however, the preamble of claim 22 disclosed ‘for display on a display screen’. It still does not represent the data on a CRT or LCD or any tangible computer monitor. (see page 23 at first paragraph of Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, discloses when a claim applies a mathematical formula, e.g., as part of a seemingly patentable process, the examiner must ensure that it does not in reality ‘seek [] patent protection for that formula in the abstract.’”

The Examiner had the same problem with independent Claims 37, 39, 43, and 45-48.

To better define the invention, Claims 22, 37, 39, 43, and 45-48 have each been amended to include a step specifying that the approximation point is displayed on the display screen. These amendments make it explicit within the body of each claim that the approximation point is associated with a physical device (i.e., it is displayed on a display screen).

With respect to independent Claims 41 and 49, on pages 2-3 of the Office Action the Examiner states the following:

“Claims 41 and 49 claimed modulated carrier signal, merely claimed non-functional descriptive material, i.e., a modulated carrier signal does not make it statutory. (see, page 51 at first paragraph of Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, discloses when nonfunctional descriptive is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not

statutory since no requisite functionality is present to satisfy the practical application requirement.) Examiner's note: The link to the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility published on the USPTO website on October 26, 2005, is as follows: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf"

What the Applicant understands the Examiner to be saying here is that signal claims are no longer patentable according to the USPTO's "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" which was posted on the USPTO's website on October 26, 2005 (the "Interim Guidelines"). In particular, please see the "Electro-Magnetic Signals" section on pages 55-57 of the Interim Guidelines. The section concludes with these words on page 57: "These interim guidelines propose that such signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of s.101. Public comment is sought for further evaluation of this question." The Applicant respectfully submits that these new Interim Guidelines are not law.

Claims 41-42 and 49 have been cancelled. Please note that Claims 41-42 and 49 have been cancelled without prejudice. The Applicant reserves the right to pursue these cancelled claims in a continuing application or otherwise.

No new matter has been entered by the above amendments.

The Applicant believes that Claims 22-40 and 43-49 are patentable.

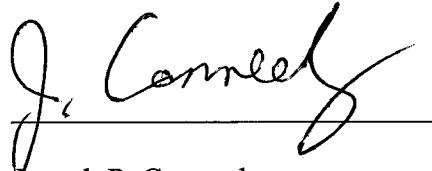
The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

McCarthy Tétrault LLP

Date: July 7, 2006

By

A handwritten signature in black ink, appearing to read "J. Conneely", is written over a horizontal line.

Joseph P. Conneely
Registration No. 54,883
Telephone: (416) 601-8179
Fax: (416) 868-0673

McCarthy Tétrault LLP
Box 48, Suite 4700
66 Wellington Street West
Toronto Dominion Bank Tower
Toronto, Ontario, Canada
M5K 1E6